

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS:	Coal Mountain Mining Company Limited)	DOCKET NO.
	Liability Partnership L.L.P., f/k/a Coal)	VGOB 95-04/18-0502-04
	Mountain Mining Company and as Coal)	
	Mountain Mining Trust (herein "Coal)	
	Mountain"), and Yukon Pocahontas Coal)	
	Company (herein "Yukon") (Coal Mountain)	
	and Yukon sometimes collectively referred)	
	to as "Applicants"))	
RELIEF SOUGHT:	Issuance of an Amended Supplemental)	
	Order Amending Prior Orders Affecting)	
	W-30 Drilling Unit to Provide: (1) for the)	
	Calculation of Those Funds the)	
	Unit Operator Deposited into the Escrow)	
	Account for Tract 4 of the W-30 Drilling Unit;))	
	(2) to Provide to Applicants a Royalty)	
	Accounting;)	
	(3) Disbursement to Coal Mountain and)	
	Yukon in Accordance with Their)	
	Agreement all Those Funds Deposited)	
	by the Unit Operator into the W-30 Escrow)	
	Subaccount for Tract 4)	

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on January 16, 2000 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark Swartz of Swartz & Stump, L.C. appeared for Pocahontas Gas Partnership (herein "Unit Operator"); and Sandra B. Riggs, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account with tract subaccounts for each of the coalbed methane gas drilling units established by the Board through its pooling orders, and that the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract subaccounts. Further, the Board finds that : (1) while it does not have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it does not have jurisdiction to interpret voluntary agreements by and between the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, the Board does have jurisdiction and authority to disburse funds from the Escrow Account provided the Board has been provided with (a) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or (b) an agreement among all claimants owning conflicting estates in the tract in question or any undivided interest therein.

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4. **Prior Proceedings:**

4.1. At the Board hearing held on October 24, 1995, the Board granted the relief sought by Pocahontas Gas Partnership in VGOB Docket 95-0418-0502 and 95-0418-0502-01, and on December 11, 1995 the Board executed its order pooling all interests in the W-30 Drilling Unit located in the Oakwood Coalbed Methane Gas Fields I and II (herein "Subject Drilling Unit") in the Garden Magisterial District, Buchanan County, Virginia (herein "Subject Lands") for the production of occluded natural gas produced from coalbeds and rock strata associated therewith from frac wells, short holes, unsealed gob, and any additional wells that are authorized pursuant to Va. Code § 45.1-361.20 (herein "Gas") in accordance with the provisions of Va. Code §§ 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on December 19, 1995 in Deed Book 444 at Page 16 and pooled all Gas interests in all coalbed and coal seams below the Tiller Seam, including those portions of Consolidation Coal Company's Buchanan #1 Mine's 6 East Longwall Panel and 7 East Longwall Panel underlying Subject Drilling Unit (herein "Subject Formations") all pursuant to: (1) the permit provisions contained in Va. Code §§ 45.1-361.27 *et seq.*; (b) the Oakwood Coalbed Gas Field I Order No. OGCB 3-90 dated May 18, 1990; the Oakwood Coalbed Gas Field II Board Order 91-1119-0162 effective as of December 17, 1992; (d) §§480-05-22.1 *et seq.*, Gas and Oil Board Regulations; and (e) §§ 480-05-22.2 *et seq.*, Virginia Gas and Oil Board Regulations, all as amended from time to time. The Board named PGP as the Unit Operator of the W-30 Drilling Unit. The Pooling Order was amended and supplemented by (1) the Board's Supplemental Order Regarding Elections executed on September 5, 1996 and filed on September 12, 1996 in Deed Book 453 Page 256 (herein "Supplemental Order"), (2) the Board's Order in Docket No. 95-0418-0502-03 entered August 17, 1999 (herein "First Amended Supplemental Order")¹, and (3) the Board's Order in Docket 98-0418-0502-01 entered November 17, 2000 and filed at Deed Book 515, Page 741 (herein "Second Amended Supplemental Order")². By letter dated November 21, 2000, the Board noticed the Applicants, the Unit Operator and the Escrow Agent of its intention to hear this matter on December 19, 2000, ordered the Unit Operator to file with the Board an accounting of funds placed on deposit in the escrow subaccount for Tract 4 of the W-30 Drilling Unit, and ordered the Unit Operator and the Escrow Agent to reconcile their accountings with respect to same (herein "Accounting Order").

4.2. As instructed by the Board through the Pooling Order and the Supplemental Orders, the Escrow Agent established the Escrow Account for Subject Drilling Unit (herein "Escrow Account") with subaccounts for the escrowed tracts therein. Thereafter the Escrow Agent periodically received from the Unit Operator for deposit into the Escrow Account and the relevant subaccounts proceeds which were designated by the Operator through its royalty statements as being attributable to various tracts identified in the Exhibits E and EE to the Second Amended Supplemental Order and the attached Accounting.

4.3. The Unit Operator has certified and represented to the Board that:

- (1) Coal Mountain is the sole owner of the coal estate underlying Tract 4 of the W-30 Drilling Unit,
- (2) Yukon is the sole owner of oil and gas estate underlying Tract 4 of the W-30 Drilling Unit;

¹ By the First Amended Supplemental Order funds attributable to a 0.15-acre tracts designated as Tract 2 were disbursed to Coal Mountain and Garden Realty Corp.

² By the Second Amended Supplemental Order the Unit Operator notified the Board that Applicants had entered into an agreement to split the escrowed funds attributable to the conflicting gas claims in Tract 4 of Subject Drilling Unit.

- (3) that together Coal Mountain and Yukon claim to have and own, in the aggregate, the following Gas royalty interest in Subject Drilling Unit by virtue of their respective ownership interests in Tract 4:

Tract #	Acres	Percent of Unit	Funds On Deposit As of 11/30/00
4	59.33	74.16250%	\$47,881.69

- (4) that while at the time of the entry of the Pooling Order, as amended, Coal Mountain and Yukon had conflicting claims of ownership in Tract 4, subsequent to the entry of the Pooling Order, Coal Mountain and Yukon entered into a Split Agreement whereby Coal Mountain and Yukon are each entitled to receive a sum equal to fifty percent (50%) of funds attributable to their interests, including, but not necessarily limited to such funds on deposit in the Tract 4 Escrow Subaccount.

- 4.4. In compliance with the Accounting Order, PGP presented to the Board an accounting of funds deposited into the Escrow Account, including those on deposit for Tract 4, with interest accruing thereon and fees charged to the Escrow Account together with a reconciliation of PGP's records of Escrowed Funds to the records of the Escrow Agent, a copy of which accounting is attached hereto as Exhibit A (herein "Accounting").

5. **Findings:**

- 5.1. Va. Code 45.1-361.22.5 provides:

The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tract in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.

- 5.2 Coal Mountain has entered into a Split Agreement with Yukon whereby they have agreed to split on a 50/50 basis royalties attributable to their respective conflicting claims to coalbed methane gas, including but not limited to their conflicting claims to ownership of coalbed methane gas underlying Tract 4 of Subject Drilling Unit and their conflicting claims to bonuses and/or royalties deposited by the Unit Operator in the Escrow Account which are attributable to said tract.

- 5.3 PGP has represented to the Board through the Accounting that as of November 30, 2000 the funds set forth in Paragraphs 4.3(3) above are those funds on deposit in the Escrow Account which are attributable to Tract 4.

6. **Relief Granted:**

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting, the Escrow Agent is ordered to disburse: (1) fifty percent (50%) of the funds attributable to the Tract 4 escrow subaccount on the date of disbursement to Coal Mountain Mining Company Limited Partnership L.L.P. f/k/a Coal Mountain Mining Company and as Coal Mountain Mining Trust, P. O. Box 675, Tazewell, VA 24651; and (2) fifty percent (50%) of the funds attributable to the Tract 4 escrow subaccount on the date of disbursement to Yukon Pocahontas Coal Company, P. O. Box 187, Tazewell, VA 24651. Further, the Supplemental

Orders filed in this cause is hereby modified to delete the requirement that payments attributable to Applicants' conflicting coalbed methane gas ownership interests in Tract 4 be deposited by PGP into the Escrow Account. To the extent not specifically granted herein, any other or further relief is denied.

7. **Conclusion:**

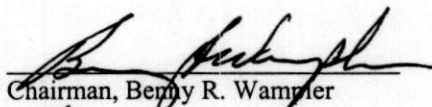
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and IT IS SO ORDERED.

8. **Appeals:**

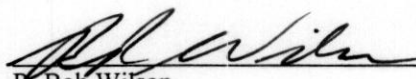
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 5th day of March, 2001, by a majority of the Virginia Gas and Oil Board.

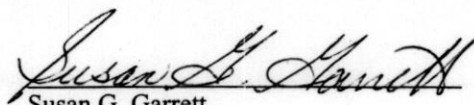

Chairman, Benny R. Wampler

DONE AND PERFORMED this 14th day of March, 2001, by an Order of this Board.


R. Bob Wilson
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF WISE)

Acknowledged on this 12 day of March, 2001, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Susan G. Garrett
Notary Public

My Commission expires: July 31, 2002

VGOB Tract #		2		4		11		Date	Check Total	Net Income +/-	Bank Balance	Operator Balance	19429400		16186800		71050700	
Check Date	Tract	Check Total	Tract	Check Total	Tract	2	4						2	4	2	4	2	4
10/25/93										\$0.00	\$5,375.60	\$5,375.60	\$0.00	\$5,244.65	\$5,244.65	\$130.95	\$130.95	
11/25/93										(\$13.86)	\$5,361.74	\$5,484.36	\$0.00	\$89.10	\$5,333.75	(\$30.34)	\$130.61	
12/24/93										(\$0.14)	\$7,772.79	\$7,772.79	\$0.00	\$2,249.73	\$7,583.48	\$58.70	\$189.31	
1/24/97		\$26.13								\$43.56	\$10,644.23	\$10,644.23	\$26.13	\$2,776.07	\$10,359.55	\$69.24	\$258.55	
2/25/97										\$12.23	\$10,656.46	\$16,459.76	\$0.03	\$5,673.93	\$16,033.48	\$141.57	\$400.12	
3/25/97		\$29.32								(\$12.05)	\$22,543.15	\$22,543.15	\$29.30	\$5,906.77	\$21,940.28	\$147.32	\$547.43	
4/25/97										\$59.82	\$26,095.39	\$26,095.39	\$0.15	\$3,465.63	\$25,405.89	\$86.46	\$633.90	
5/23/97										\$74.58	\$27,266.11	\$27,266.11	\$0.16	\$1,142.09	\$26,547.97	\$28.47	\$662.37	
6/25/97										\$79.23	\$28,813.71	\$28,813.71	\$0.16	\$1,509.74	\$28,057.72	\$37.69	\$700.06	
7/25/97										\$127.39	\$31,353.96	\$31,353.96	\$0.25	\$2,478.19	\$30,535.91	\$61.82	\$761.88	
8/25/97		\$25.13								\$103.28	\$31,524.55	\$33,215.03	\$25.32	\$1,791.07	\$32,326.97	\$44.69	\$806.57	
9/25/97		\$2.35								\$953.37	\$34,283.47	\$34,283.47	\$2.63	\$1,039.85	\$33,366.82	\$25.95	\$832.52	
10/24/97										\$663.08	\$35,196.47	\$35,196.47	\$0.61	\$906.32	\$34,273.14	\$6.07	\$838.59	
11/25/97										\$667.56	\$36,084.56	\$36,512.69	\$0.53	\$849.91	\$35,123.06	\$37.64	\$876.24	
12/24/97										\$428.13	\$36,512.69	\$36,512.69	\$0.00	\$428.13	\$35,551.19	\$0.00	\$876.24	
1/23/98										\$0.00	\$37,227.27	\$37,227.27	\$0.00	\$686.76	\$36,237.95	\$27.82	\$904.06	
2/25/98										\$0.00	\$37,736.13	\$37,736.13	\$0.00	\$508.86	\$36,746.81	\$0.00	\$904.06	
3/25/98										\$341.25	\$38,077.38	\$38,077.38	\$0.00	\$341.25	\$37,088.06	\$0.00	\$904.06	
4/24/98										\$290.82	\$38,368.20	\$38,368.20	\$0.00	\$263.00	\$37,351.06	\$27.82	\$931.88	
5/22/98										\$325.20	\$39,514.82	\$39,514.82	\$1.83	\$1,124.84	\$38,475.90	\$19.95	\$951.83	
6/25/98										\$282.82	\$39,777.64	\$39,777.64	\$0.00	\$282.82	\$38,738.72	\$0.00	\$951.83	
7/24/98										\$318.68	\$40,096.32	\$40,096.32	\$0.00	\$318.68	\$39,057.40	\$0.00	\$951.83	
8/25/98										\$211.87	\$40,308.19	\$40,308.19	\$0.00	\$184.62	\$39,242.02	\$27.25	\$979.08	
9/25/98		\$12.12								\$0.00	\$40,580.55	\$40,580.55	\$12.12	\$253.90	\$39,495.92	\$6.34	\$985.42	
11/25/98										\$0.00	\$40,689.47	\$40,689.47	\$0.00	\$108.92	\$39,604.84	\$0.00	\$985.42	
12/23/98										\$918.55	\$41,771.70	\$41,771.70	\$2.24	\$1,057.74	\$40,662.59	\$22.25	\$1,007.66	
1/23/99										\$193.35	\$42,150.13	\$42,150.13	\$0.47	\$373.30	\$41,035.86	\$4.66	\$1,012.33	
1/25/99										\$13.26	\$42,402.81	\$42,402.81	\$0.03	\$252.33	\$41,288.21	\$0.32	\$1,012.33	
2/25/99										\$96.89	\$42,765.54	\$42,765.54	\$0.23	\$360.16	\$41,648.39	\$2.31	\$1,014.96	
3/25/99										\$176.95	\$43,254.60	\$43,254.60	\$0.42	\$453.43	\$42,401.82	\$35.21	\$1,050.17	
4/23/99										\$80.20	\$43,534.25	\$43,534.25	\$0.19	\$277.51	\$42,379.33	\$1.95	\$1,052.11	
5/25/99										\$124.18	\$43,826.33	\$43,826.33	\$0.29	\$288.79	\$42,668.12	\$3.00	\$1,055.12	
6/25/99										\$161.57	\$44,132.04	\$44,132.04	\$0.38	\$301.44	\$42,969.56	\$3.89	\$1,059.01	
7/23/99										\$64.89	\$44,410.17	\$44,410.17	\$0.15	\$276.42	\$43,245.98	\$1.56	\$1,060.56	
													(\$102.80)					
													\$0.83					
8/25/99										\$202.93	\$44,695.23	\$44,695.23	\$0.00	\$383.00	\$43,628.98	\$4.86	\$1,065.42	
9/24/99		\$6.04								\$136.38	\$45,073.41	\$45,073.41	\$6.04	\$340.93	\$43,969.91	\$31.21	\$1,096.63	
10/25/99										\$39.22	\$45,377.21	\$45,377.21	\$0.01	\$302.84	\$44,272.75	\$0.95	\$1,097.59	
											\$45,682.65	\$45,682.65	\$0.00	\$305.44	\$44,578.19	\$0.00	\$1,097.59	
11/24/99										\$402.26	\$46,357.77	\$46,357.77	\$0.06	\$665.39	\$45,243.58	\$9.66	\$1,107.25	
12/23/99										\$129.57	\$46,487.34	\$46,487.34	\$0.02	\$126.46	\$45,370.04	\$3.09	\$1,110.34	
1/24/00										\$146.20	\$47,124.84	\$47,124.84	\$0.02	\$69.88	\$45,971.48	\$36.03	\$1,146.38	
2/25/00										\$164.25	\$47,499.55	\$47,499.55	\$0.02	\$370.69	\$46,342.17	\$4.00	\$1,150.37	
3/25/00										\$153.41	\$47,652.96	\$47,652.96	\$0.02	\$149.87	\$46,491.85	\$3.72	\$1,154.09	
4/23/00										\$207.88	\$48,063.97	\$48,063.97	\$0.03	\$202.81	\$46,694.86	\$5.03	\$1,159.12	
5/23/00										\$194.04	\$48,063.97	\$48,063.97	\$3.86	\$189.31	\$46,883.97	\$9.96	\$1,169.08	
6/23/00		\$3.83						\$9.09		\$203.43	\$48,267.40	\$48,267.40	\$0.05	\$198.44	\$47,082.41	\$4.95	\$1,174.03	
7/31/00										\$203.53	\$48,470.93	\$48,470.93	\$0.05	\$198.53	\$47,280.94	\$4.95	\$1,178.98	
8/31/00										\$191.00	\$48,661.93	\$48,661.93	\$0.04	\$186.31	\$47,467.25	\$4.65	\$1,183.63	
9/30/00										\$220.97	\$48,882.90	\$48,882.90	\$0.05	\$215.55	\$47,682.80	\$5.37	\$1,189.00	
10/31/00										\$203.90	\$49,086.80	\$49,086.80	\$0.05	\$198.89	\$47,881.69	\$4.96	\$1,193.96	